

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

S.J.W and S.W.W.	)	
By and Through Their Parents, Brian Wilson)		
and Linda Wilson	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 12-00285-CV-W-HFS
	)	
LEE'S SUMMIT R-7 SCHOOL DISTRICT,)		
et al.	)	
Defendants.	)	

**MEMORANDUM TO COUNSEL**

It may be helpful if I suggest some issues for the preliminary injunction hearing. I have briefly reviewed filings and have no strong initial opinions, particularly without filings by defendants.

Most preliminary injunction proceedings focus on probability of success. I suggest unusual concentration here on other issues that are in focus right now – comparable harms and benefits of ordering a change of schools within the next several weeks. Also, whether there are public interest issues that may weigh significantly on granting relief this month.

To be candid about my thoughts, certain questions occur to me. For instance, has the “damage” already been done for this school year, so that changing schools might be more disruptive to plaintiffs than successfully restoring them to their situation earlier? What has been irreparably lost already? What can be “saved?” What would a notorious change of schools result in for student morale or the morale and effectiveness of teachers and the administration? Would returning plaintiffs to their high school be considered a “victory” for some segments and a “defeat” for others? Would a civics lesson regarding Free Speech be helpful? Would the lesson favor protecting speech

in a school setting that is extremely outspoken, insulting, and confrontational? How widely is it understood that plaintiffs were negligent, rather than being authors of or necessarily agreeing with the offensive material? Are some of these questions legally appropriate?

Plaintiffs' counsel are more familiar with the practical issues than I am and may present others not mentioned (by affidavit or otherwise).

/s/ Howard F. Sachs  
HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

March 9, 2012

Kansas City, Missouri